

**STATEMENT OF ROBERT J. LAMB, SENIOR ADVISOR TO THE ASSISTANT
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DEPARTMENT OF THE INTERIOR,
BEFORE
THE SUBCOMMITTEE ON NATIONAL PARKS,
RECREATION, AND PUBLIC LANDS
HOUSE COMMITTEE ON RESOURCES,
CONCERNING H.R. 1517, TO AMEND THE LAND AND WATER
CONSERVATION FUND TO LIMIT THE USE OF FUNDS AVAILABLE FROM
THE LAND AND WATER CONSERVATION FUND ACT OF 1965 TO USE FOR
MAINTENANCE.**

March 25, 2004

Mr. Chairman, thank you for the opportunity to appear before your subcommittee to testify on H.R. 1517, a bill to amend the Land and Water Conservation Fund to limit the use of funds available from the Land and Water Conservation Fund Act of 1965 to use for maintenance.

The Department of the Interior agrees that reducing the backlog of deferred maintenance is an important priority in our national parks, national wildlife refuges, and on our other Federal lands. Addressing the backlog in parks has been a Presidential priority throughout this Administration, and Secretary Norton has emphasized the importance of taking better care of what we have before significantly expanding the Federal land base. However, the Administration strongly opposes H.R. 1517 because it would impact the Department's efforts to collaborate with private and other landowners, provide recreational public access and rights-of-ways, preserve historical, recreational, and natural resources, and achieve conservation goals. It also would detract from the Department's current efforts to systematically measure and address the true maintenance condition of facilities on our Federal lands.

The Land and Water Conservation Fund (LWCF) was established in 1965 to conserve, develop, and utilize outdoor recreation resources for the benefit and enjoyment of the American people. H.R. 1517 would amend the LWCF Act by changing the purpose and certain allocation provisions from Federal land acquisition to maintenance. The bill also would eliminate the Secretary of the Interior's authority to make minor boundary

changes, receive donated land, purchase land with donated funds, and transfer or exchange lands from other Federal agencies. In addition, the bill prescribes a definition of “backlogged maintenance” and a dollar amount for each agency and requires that each agency reduce this amount by at least 20 percent by the end of each 5 fiscal year period.

As you know, the President has made a commitment to fully fund LWCF by including \$900.2 million for LWCF in the FY2005 budget of which \$661 million is requested by the Department. Of this total, \$153.3 million is requested by the Department for Federal land acquisition. The balance of the Department’s LWCF request, \$507.3 million, funds cooperative conservation programs that allow us to promote conservation in partnership with States, Tribes, local communities and citizens.

The FY 2005 budget for the Forest Service includes \$66.9 million for land acquisitions and \$172.6 million for cooperative conservation programs. While the purposes of LWCF were initially achieved through Federal fee acquisition and management, today, partnerships and cooperative conservation are increasingly important tools for fulfilling LWCF goals. The Department believes that the effective conservation of lands and natural resources cannot rely primarily on expanding the Federal estate through land acquisition. Since this Administration began, this Department has emphasized partnerships programs to achieve conservation goals instead of relying on acquisition as the primary solution. The 2005 budget request for Federal land acquisition is commensurate with the 2004 enacted level, and well below the elevated levels of the late 1990s.

The Department recognizes, however, that certain acquisitions of land or interests in lands are necessary, not only to achieve Departmental goals, but also to meet collaborative agreements with private property owners, States, local governments, and third party groups, improve or provide legal access to existing land, provide rights-of-way, and protect historical, recreational, and natural resources. Congress also recognizes this need, as it enacts a number of bills each year authorizing new areas and boundary expansions. Since January 1993, for the NPS alone, Congress has authorized

the Federal acquisition of 2.5 million acres of land at a total cost of \$338.8 million. A vast majority of the President's FY2005 acquisition budget request involve Congressionally supported authorizations.

The Department has emphasized the use of creative alternatives to fee title acquisition by focusing on opportunities to acquire easements and other cost effective ways to protect resources and to stretch our land acquisition funding. Similar to the Administration's recent requests, the 2005 budget emphasizes innovative alternatives to fee title purchase, such as conservation easements and land exchanges, in order to minimize the impacts on local tax bases. Purchases are made from willing sellers only and include the input of local, affected communities and stakeholders.

Cooperative Conservation Programs

Our approach for LWCF is consistent with that of the Congress, which has chosen to fund a number of programs of importance to our State, local, and private stakeholders from the Land and Water Conservation Fund. These include: LWCF State grants, State and Tribal Wildlife Grants, Private Stewardship Grants, Landowner Incentive Grant Program, and Cooperative Endangered Species Conservation Fund. The FY 2005 budget proposes to give similar treatment to two other Cooperative Conservation Programs that are consistent with LWCF purposes: North American Wetlands Conservation Fund and the Cooperative Conservation Initiative (CCI). CCI includes National Park Service, Fish and Wildlife Service, and Bureau of Land Management Challenge Cost Share programs, FWS Partners for Fish and Wildlife, FWS Coastal Programs, Migratory Bird Joint Ventures and Take Pride in America. Through partnerships, the agencies are working with landowners and other citizen stewards to tackle invasive species, reduce erosion along stream banks or enhance habitat for threatened and endangered species. CCI already involves more than 700 partners in 40 States and will conserve or restore more than 50,000 acres. In FY 2004, Congress appropriated \$423.1 million for these programs, including \$249.3 million out of the LWCF. The President's FY 2005 budget includes \$507.3 million through the LWCF for cooperative conservation programs, including \$129.5 million for the CCI.

In FY 2004, Congress treated the Forest Service similarly and funded Forest Legacy at \$64.1 million from LWCF. The FY2005 budget requests \$172.6 million for three Cooperative Conservation Programs - Forest Legacy, Forest Stewardship, and Urban and Community Forestry.

Improving Recreational Access for the Public

A keystone of BLM's land acquisition program is the use of easements and exchanges working collaboratively with landowners to protect important resource values and improve public access to recreational opportunities. BLM is using funds from the LWCF to work on approximately 95 transactions that involve land critical to improving legal public access to BLM land. BLM has identified opportunities to improve legal public access to an additional 2.9 million acres through land or easement purchase, donation or land exchange actions. Since 1992, BLM has reduced the number of acres of BLM land lacking sufficient legal public access by over 10 million acres, from 33.1 million acres to approximately 23.0 million acres. All fourteen of BLM projects which are in the President's budget, two of which are described below, either provide or improve legal public access to adjacent BLM lands and resources.

- The President's budget contains \$2.7 million to acquire 6,420 acres to complete the phased Ute Mountain acquisition within New Mexico's Rio Grande National Wild and Scenic River corridor. Assisted by the Trust for Public Land and the New Mexico Outfitter's Association, this purchase will enhance public access, preserve the wild whitewater rafting experience for the approximately 300,000 annual visitors, and protect habitat for the second highest concentration of raptors in North America.
- The President's budget contains \$1.5 million to acquire 1,925 acres of inholdings in Colorado Canyons National Conservation Area that form the backdrop for 50,000 annual visitors rafting the Colorado River and would secure permanent public access to the 142-mile internationally renowned Kokopelli Mountain Bike Trail, linking Loma, Colorado and Moab, Utah.
- In FY2002, the BLM utilized LWCF funds to acquire the 4,208-acre Wilcox Ranch property in Carbon and Emery Counties, Utah. Purchase of this property

provided, for the first time, access to over 75,000 acres of Federal lands under the jurisdiction of the BLM. The purchase was partially funded by Utah's Department of Natural Resources and supported by Rocky Mountain Elk Foundation and Trout Unlimited.

Providing Rights-of-Way through Federal Lands

Other types of land acquisition activities supported by LWCF, whether through acquisition, exchange, donation, or transfer, include those involving rights-of-way through Federal lands for power lines, pipelines, roads, cell towers, and other important services. In fact, NPS:

- has completed work with the Navy on the acquisition of a right-of-way for cellular phone towers at Catoctin Mountain to improve communications with Camp David; and
- is working with the Department of Transportation and Columbia Gas Transmission Company to allow an increase in the diameter of existing natural gas pipeline from 14 to 20 inches through the Delaware Water Gap National Recreation Area.

Preserving Historical, Recreational, and Natural Resources

The President's Budget includes acquisitions that commemorate a historical event and provide protections to recreational and natural resources. It is these resources that attract visitors from all over the country and around the world to our Federal lands.

Some of these acquisitions in the budget include:

- \$2.2 million to acquire 250 acres in Pennsylvania for the Congressionally authorized Flight 93 National Memorial commemorating the passengers and crew who gave their lives to thwart a planned attack in the Nation's Capital;
- \$6.2 million to acquire 1,042 acres in Oregon for a Congressionally authorized boundary expansion of the Fort Clatsop National Memorial, in anticipation of the bicentennial of the Lewis and Clark winter encampment;
- \$2.6 million to acquire 8,073 acres for the Congressionally authorized Baca National Wildlife Refuge located in the largest and most important concentration

of wetlands in Colorado; and

Donation, Transfer, and Exchange of Lands or Interests in Lands

Through the authority under LWCF Act to make minor boundary changes, receive donated land, purchase land with donated funds, transfer or exchange lands from other Federal agencies, the Department is able to protect resources and provide access in a very cost effective manner. These tools are critical components of many collaborative agreements to conserve, develop, and utilize outdoor recreation, and H.R. 1517 would substantially limit the Secretary's ability to work with landowners, third-party groups, and States on mutually agreeable land transactions. The following are examples of transactions that may not be possible under H.R. 1517.

- NPS gave the Virginia Department of Transportation land for road improvements to increase the safety of local commuters in exchange for land along improved roads in Manassas National Battlefield Park.
- All agencies are collaborating with the Department of the Defense in base realignment and closure efforts.
- BLM accepted a 62,489-acre donation from SF Pacific Properties Inc. and the Wildlands Conservancy valued in excess of \$6.2 million that would protect lands within the California Desert Protection Area and the Black Hills, Chocolate Mountains and Imperial Valley Wilderness.
- BLM used the Land Exchange Equalization Payment program funded by LWCF for a \$67,851 equalization payment to complete the final 591-acre phase of the Northeast Oregon Assembled Land Exchange in Oregon. BLM acquired 72 miles of perennial stream and 12 miles of migratory Bull Trout habitat for public recreation and disposed of 43,201 acres of mostly isolated, scattered parcels with little or no public access.

The Department's Land Acquisition Principles

The Secretary has instituted seven principles that govern Department of the Interior land transactions including:

- Integrity: Transactions shall meet the highest ethical standards and comply with all applicable laws, rules, regulations, and codes of professional conduct.
- Good Faith: Transactions shall occur in good faith and, except in extraordinary circumstances, only with willing parties.
- Transparency: Transactions shall be pursued transparently with appropriate opportunities for public participation.
- Mission: Transactions shall promote fulfillment of Departmental and Bureau missions.
- Citizen Stewardship: Transactions shall be consistent with the promotion of private stewardship.
- Innovation: Transactions shall employ easements, donations, and other alternatives to full fee title when appropriate.
- Congressional Direction: The Department shall provide technical assistance and policy recommendations to Congress, when requested, and in a manner consistent with these principles.

In addition, the Departments of the Interior and Agriculture have convened an interagency working group to develop a long-term national plan outlining the acreage goals and conservation objectives for Federal land acquisition. This effort addresses our goals to focus land acquisition as outlined in our strategic plan and also meet the requirements as directed in the House Report language on the FY 2004 Appropriations Act for Interior and Related Agencies. The working group intends to complete the plan by December 15, 2004.

The Department recently testified before this Subcommittee on March 17, 2004, about its efforts to reform the real estate appraisal process and address other land transaction issues. One of the most important efforts of the Department was the creation of a new Office of Appraisal Services (OAS). This office consolidates agency appraisers and changes the reporting structure to provide greater independence, integrity and professionalism for our appraisers. We have already begun to see the benefits of this reorganization in improved appraisals.

It is important to note that our new Office of Appraisal Services and the agencies' realty offices derive a majority of their funding from LWCF not only for acquisitions, but for pre-acquisition activities such as title work, appraisals, surveys, and other administrative support services.

State-side LWCF

In addition to these concerns about Federal-side funding of LWCF, H.R. 1517 could create ambiguity for any funds allocated for State purposes because it would change the allocation language for both State and Federal purposes to maintenance but retain the acquisition language in other State-side provisions. Thus, H.R. 1517 could have an impact on the \$93.8 million that is distributed by formula to the States.

Maintenance Backlog

H.R. 1517 also would provide a definition of "backlogged maintenance" and a dollar amount of these needs for each agency, and would direct that each agency reduce this amount by at least 20 percent by the end of each 5 fiscal year period. These provisions would detract from the Department's current efforts to improve maintenance condition for all of its assets on Federal lands under its jurisdiction.

As the Department testified before this Subcommittee on February 26, 2004, we have learned that using fixed monetary numbers to capture the maintenance backlog is not a true measure of the maintenance condition of our facilities. The maintenance backlog, we believe, cannot be stated as a static number. The Department outlined the two components of efforts to improve the maintenance condition of our facilities on Federal lands.

The first component is meeting the President's commitment to invest \$4.9 billion over five years to improve facilities and roads in our National Parks. We are on track to exceed this goal with this year's request of \$1.112 billion – an amount that is nearly double the amount for the same categories just seven years ago. In the four budgets of this Administration, nearly \$3.9 billion to date has been proposed to address deferred

maintenance in parks. The funds provided are achieving tangible results. The NPS has undertaken over 1,300 projects using repair and rehabilitation funding in FY 2001-2003 with another 400 more anticipated to be done in FY 2004.

The other land management agencies have also made significant investments in addressing maintenance needs. Of the \$76.5 million, BLM has requested in FY 2005 for Operations, Annual Maintenance, Deferred Maintenance and Infrastructure Improvement activities, more than \$40 million would be directed to deferred maintenance annually over a five-year period, for a total of \$200 million. In the past 4 years, the BLM has completed or has underway over 450 repair and rehabilitation projects at various BLM sites.

The FWS devoted \$143 million during FY 2001 to FY 2003 for deferred maintenance with another \$66.5 million in FY 2004. The FWS has completed approximately 1,900 projects on refuges using deferred maintenance funds during FY 2001 to FY2003 and an additional 466 projects are underway in FY 2004.

The second component of the Department's efforts to improve maintenance conditions at our Federal facilities is to establish a system to assess the condition of facilities using an industry-accepted standard, the Facility Condition Index. The NPS, BLM, and FWS are undertaking a comprehensive effort, for the first time ever, to conduct a full inventory of facilities, determine what their condition is, and identify what repairs or changes in facility management are needed. With this system, the agencies can set targets each year to improve facilities. These management changes will enable the agencies to take care of their assets far more effectively and efficiently than in the past.

We have found that identifying a maintenance backlog number at a particular moment in time and then measuring success by when that project is completed in the future does not provide a true picture of the maintenance condition of all assets at any given time, account for the constant change that occurs in the condition of assets, account for the adjustments for repair costs that must be made as the condition of the asset changes, and anticipate how these changes will impact project prioritization.

For this reason, the Department has learned that a more effective way to determine the true maintenance condition of our assets is to institute a management system that will answer four basic questions for each asset:

1. What is the asset and its management priority?
2. What condition is it in?
3. What will it cost to improve the asset to acceptable condition?
4. What are the long-term costs to maintain the asset?

We believe that this type of dynamic management system provides a better measure of success than using a fixed maintenance backlog number to guide Departmental policy.

Mr. Chairman, this concludes my testimony. I am pleased to answer any questions from you and members of the subcommittee.